

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JODY K. BUTTS,	:	Civil No. 1:19-cv-0813
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
EXCEL HOME CARE,	:	
	:	
Defendant.	:	Judge Sylvia H. Rambo

ORDER

Before the court is a report and recommendation of Chief Magistrate Judge Schwab in which she recommends that the court dismiss this case for failure to state a claim upon which relief can be granted due to Plaintiff’s failure to file an amended complaint on or before July 6, 2019. On July 23, 2019—nearly two weeks after the deadline for filing an amended complaint—Butts sent a brief letter that may be construed as a motion to appoint counsel. (Doc. 11.) That motion will be denied. Objections to the report and recommendation were due by July 29, 2019, but no objections have been filed.

In considering whether to adopt a report and recommendation when no objections have been filed, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)

(explaining that judges should review dispositive legal issues raised by the report for clear error). Following an independent review of the record, the court is satisfied that the report and recommendation contains no clear error and will therefore adopt the recommendation. Accordingly, **IT IS HEREBY ORDERED AS FOLLOWS:**

- 1) The report and recommendation (Doc. 10) is **ADOPTED**.
- 2) The motion for appointment of counsel (Doc. 11) is **DENIED**.
- 3) The case is **DISMISSED** for failure to state a claim upon which relief may be granted.
- 4) The Clerk of Court is **DIRECTED** to close this file.
- 5) Any appeal taken from this order is deemed frivolous and not in good faith.

s/Sylvia H. Rambo
Sylvia H. Rambo
United States District Judge

Dated: September 11, 2019